

SEP 29 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON

U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT DEARKLAND; ALLISON
DEARKLAND; DANIELLE DEARKLAND;
RYAN DEARKLAND,

Plaintiffs - Appellants,

v.

SACRAMENTO COUNTY; TRACY
GRANT, officer; RON GOODPASTER,
Officer; KEVIN BESANA, Officer;
JEFFERY POTTER, Officer; PLACER
COUNTY SHERIFF,

Defendants - Appellees.

No. 02-17005

D.C. No. CV-99-01885-GEB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, District Judge, Presiding

Argued and Submitted September 9, 2003
San Francisco, California

Before: SCHROEDER, Chief Judge, O'SCANNLAIN, and TASHIMA, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

This is an appeal from the district court's grant of defendant's motion for summary judgment. The plaintiff, Robert DeArkland filed suit against deputies of the Placer County Sheriff's Department alleging that defendants violated DeArkland's constitutional rights in a search of his home pursuant to a warrant authorizing the search of the home and its outbuildings.

DeArkland contends that the search warrant was obtained on the basis of deliberate falsification. However, there was no substantial showing of deliberate falsehood as required under our law. See Hervey v. Gates, 65 F.3d 784, 789 (9th Cir. 1995).

DeArkland also contends that the officers' entry into an outbuilding of the residence that the defendant was using for residential purposes violated the Fourth Amendment. There is no merit to this claim because the warrant authorized the search of both the residence and its outbuildings. There was no indication to the officers that this outbuilding might have been a separate residence of someone other than the defendant. See e.g., Maryland v. Garrison, 480 U.S. 79, 85 (1987).

AFFIRMED.